

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE ART IN PUBLIC PLACES ("AIPP") COMMITTEE TO ALLOW OTH STREETSCAPE, LLC (THE "PARK DEVELOPER"), AN AFFILIATE OF OCEAN TERRACE HOLDINGS, LLC, TO MOVE FORWARD WITH THE INSTALLATION OF A PROPOSED SCULPTURE ENTITLED "REFLECTION," BY PRUNE NOURRY (THE "ARTIST"), WITHIN THE OCEAN TERRACE PARK/STREETSCAPE IMPROVEMENTS; FINDING THAT THE COST TO THE PARK DEVELOPER OF COMMISSIONING AND INSTALLING THE ARTWORK EXCEEDS THE AMOUNT OF THE 2% AIPP CONTRIBUTION BASED ON THE PARK'S CONSTRUCTION COST; WAIVING, ON A 5/7THS VOTE AND PURSUANT TO SECTION 82-587(C) OF THE CITY CODE, THE REQUIRED AIPP CONTRIBUTION AND APPROPRIATION FOR THE PARK/STREETSCAPE IMPROVEMENTS, IN FAVOR OF THE PARK DEVELOPER PAYING SUCH COSTS DIRECTLY AS THEY COME DUE, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY; AND APPROVING THE COMMISSION AGREEMENT BETWEEN THE PARK DEVELOPER, THE ARTIST, AND THE CITY.

WHEREAS, on July 31, 2019, the City executed a Development Agreement with certain affiliates of Ocean Terrace Holdings, LLC (collectively, "OTH"); and

WHEREAS, pursuant to the Development Agreement, OTH and its affiliates would develop, design, permit and construct, at OTH's sole cost and expense, certain park and streetscape improvements between 73rd Street and 75th Street having a value upon completion of approximately \$14.8 million, thereby implementing the vision of the Neighborhood Design Plan prepared by the Corradino Group and Garcia-Pons + Associates ("Park/Streetscape Improvements"); and

WHEREAS, OTH Streetscape, LLC, an affiliate of OTH, is the entity responsible for constructing the Park/Streetscape Improvements (the "Park Developer"); and

WHEREAS, ownership, operation, and maintenance of the Park/Streetscape Improvements will rest solely with the City; and

WHEREAS, the Development Agreement requires that OTH comply with the City's Art in Public Places ("AIPP") program requirements under Section 82-536 through 82-612 of the City Code, and it contemplates that OTH would contribute to the City's Art in Public Places fund a total of 2.0% of the "construction cost" of the Park/Streetscape Improvements (the "Public Art Funds"), with the full amount of such Public Art Funds to be dedicated specifically to OTH's use for public art within the Park/Streetscape Improvements; and

WHEREAS, in view of OTH's overall design responsibility for the Park/Streetscape Improvements, the Development Agreement allows OTH to either: (a) submit the proposed artworks to be funded with the Public Art Funds to the City's Art In Public Places Committee for its review, recommendation and approval; or (b) seek the City Commission's approval of the proposed artworks and waiver of any applicable AIPP Ordinance program requirements, "which approval by the City Commission shall not be unreasonably withheld, conditioned, or delayed"; and

WHEREAS, on February 20, 2024, and March 19, 2024, Park Developer presented a proposed sculpture known as *Reflection* (the "Artwork") by Prune Nourry (the "Artist") to the City's AIPP Committee for its review, and Park Developer was approved to proceed with the installation of the proposed Artwork; and

WHEREAS, on October 8, 2024, the City's Historic Preservation Board granted a Certificate of Appropriateness for the installation of the proposed Artwork within the Park/Streetscape Improvements; and

WHEREAS, as part of Park Developer's submittal to the AIPP Committee and the HPB, a detailed presentation, including proposed materials, maintenance plan, and budget were provided; and

WHEREAS, the City and OTH have agreed that Park Developer shall be responsible for commissioning and installing the Artwork (including all associated costs); and

WHEREAS, the cost to Park Developer of commissioning and installing the Artwork exceeds the 2% AIPP contribution, based on the construction cost of the Park/Streetscape Improvements; and

WHEREAS, OTH desires that the City waive the required AIPP contribution and appropriation for the Park/Streetscape Improvements in favor of the Park Developer paying for the costs of the proposed Artwork directly as they come due; and

WHEREAS, such waiver is in the best interest of the City because it will allow the Park Developer to pay for the costs of the Artwork directly to the Artist and the relevant parties and avoid the City having to make payments from funds contributed by OTH to the City's AIPP fund, thereby expediting the construction of the proposed Artwork and delivering desirable operational and administrative efficiencies; and

WHEREAS, the Park Developer intends to enter into a certain Commission Agreement with the Artist and the City regarding the proposed Artwork, and the City desires to approve and join in that Commission Agreement; and

WHEREAS, the Administration recommends that the Mayor and City Commission adopt this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby: (a) accept the recommendation of the AIPP Committee to allow OTH Streetscape, LLC (the

"Park Developer"), an affiliate of Ocean Terrace Holdings, LLC, to move forward with the installation of a proposed sculpture entitled "Reflection," by Prune Nourry (the "Artist"), within the Ocean Terrace Park/Streetscape Improvements; (b) find that the cost to the Park Developer of commissioning and installing the Artwork exceeds the amount of the 2% AIPP contribution based on the construction cost of the Park/Streetscape Improvements; (c) waive on a 5/7ths vote, and pursuant to Section 82-587(c) of the City Code, the required contribution and appropriation of the Public Art Funds for the Park/Streetscape Improvements, in favor of the Park Developer paying such costs directly as they come due, finding such waiver to be in the best interest of the City; and (d) approve the Commission Agreement between the Park Developer, the Artist, and the City.


PASSED AND ADOPTED this _____ day of _____ 2024.

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION



City Attorney NK Date 10/21/2024